

IN THE DRAWINGS

Please substitute Figures 6-8 accompanying with this response.

REMARKS

Reconsideration of this application as amended is respectfully requested.

In the Office Action, claims 1, 3-29 and 31-43 were pending. Claims 1, 3-29 and 31-43 were rejected. Portions of the drawings were objected. In this response, claims 37-43 have been canceled without prejudice. No claim has been amended. In addition, new claims 44-47 have been added. Thus, claims 1, 3-29, 31-36 and 44-47 remain pending. Further, substituted Figures 6-8 have been submitted. Formal drawings will be submitted when the application is in condition of allowance. No new matter has been added.

Claims 1, 3-12, 21, 24-29, 31-35 and 37-40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,505,160 of Levy et al ("Levy"). Applicant hereby reserves the right to swear behind Levy. In view of the forgoing amendments, it is respectfully submitted that claims 1, 3-29, 31-36 and 44-47 include limitations that are not disclosed by Levy. Specifically, independent claim 1 recites as follows:

1. A system comprising:  
a controller configured to select an identifier associated with a media object and to send a request to play the media object identified by the identifier, wherein the controller sends the request by wirelessly transmitting the request having the identifier stored in the controller over a wireless communication media; and  
an appliance configured to receive the request having the identifier from the controller over the wireless communication media, to determine whether the identified media object is stored in the appliance, to retrieve the media object from a first server via a network connection when the media object is not stored in the appliance, and to play the media object in response to the request.

(Emphasis added)

Independent claim 1 includes a controller that wirelessly communicates with an appliance over a wireless network, where the appliance communicates with a first server over another network. The controller sends a request to the appliance to play a media object by wirelessly

transmitting an identifier identifying the requested object in the appliance. In response to the requested wireless received from the controller, the appliance determines whether the requested media object is stored in the appliance and retrieves the requested object from the first server over the network if the appliance does not have the requested object stored therein. Thereafter, the appliance plays the retrieved object. It is respectfully submitted that the above limitations are absent from the cited references, individually or in combination.

Rather Levy is related to embedding an identifier within an audio stream, such that when the audio stream is played, the identifier causes the player to access another server to retrieve additional information or advertisement to invite the user to purchase more content from the server (see Abstract of Levy). Specifically, Levy stated:

"When the identifier is associated with metadata or actions, it transforms the media object into a "linked" object. The identifier travels with the object through distribution .... A decoding device or programmatic process extracts the identifier from the object and uses it to retrieve related data or actions ("metadata"). In the case of an audio object, like a song, the metadata typically includes the title, artist, lyrics, copyright owner, sound recording owner, information about buying or sampling opportunities and URLs to this type of data as well as web sites and other programs and devices. Linked actions include device or programmatic processes for electronically establishing a license, transferring content (either streaming or download), sending an email, recording marketing data about a transaction, etc. The identifier allows a fan of a particular type of music or artist to get more information about the music and to buy more music. From the perspective of the artists and record labels, the identifier provides an additional opportunity to promote their music and sell content, concert tickets, etc."

(col. 2, lines 38 to 61 of Levy, emphasis added).

Levy further stated:

"In addition, in some implementations where identifier linking transactions are monitored, it enables the vendors of music to gather data about electronic transactions triggered by the link. For example, users of information may choose to provide information about themselves when they register their decoding device or software with the system. A user ID or other context information may then be recorded when the identifier is extracted and used to trigger a transaction. Many entities involved in the distribution of media signals can benefit from the linking capability. Artists can link their music to information about themselves and provide electronic buying opportunities for music, concert tickets, clothing, etc. Rights holding organizations can use the link to inform users about itself and licensing opportunities. In some cases, the link may also be

used to monitor playing and distribution of copies of the music. Record labels can link their music to information about the artist, the label, electronic buying opportunities, etc. Electronic retailers can increase sales by linking users to opportunities to sample and buy additional music (via download or streaming delivery over a wire or wireless network). Conventional brick and mortar retailers can use linking to provide information about the music and to provide buying opportunities. Radio stations and other broadcasters can use the linking capability to bring users to their web sites, creating advertising revenue, to provide electronic buying opportunities for music, concert tickets, clothing items, etc. These and other forms of linked metadata and actions may be implemented in various combinations in different application scenarios."

(col. 2, line 62 to col. 3, line 23 of Levy, emphasis added)

Thus, the identifier embedded within the audio stream of Levy is for commercial advertisement purposes. The identifier of Levy is significantly different than the identifier recited in claim 1.

In contrast, independent claim 1 requires a controller to wirelessly transmit an identifier to a network appliance, where the identifier is used to identify a media object to be played within the network appliance, rather than to be embedded within the media object for advertisement purposes as disclosed in Levy. That is, the identifier of claim 1 is not to be embedded within the media object. Rather, the identifier is used to identify a media object to be played.

In the Office Action, the Examiner contended that sections of col. 4, lines 20-67; col. 5, lines 1-12, 56-65; col. 6, line 3 to col. 7, line 12; and col. 10, lines 4-29 and 58-67 read on the above limitations (2/7/2005 Office Action, pages 4-5). Applicant respectfully disagrees.

The cited sections are related to how to use the identifier to access additional context information and perform further action (e.g., col. 4, lines 49-53; col. 6, lines 29-34 of Levy) and how to embed an identifier within an audio stream (e.g., col. 10, lines 4 to 18 of Levy). It is respectfully submitted that Levy fails to disclose the limitations set forth above.

In contrast, according to certain embodiments of the present application, the media object is not stored within the controller and the controller only stores identifiers for identifying the

media objects. In response to the identifier wirelessly received from the controller, the network appliance determines whether the identified media object is stored within the network appliance. If so, the network appliance will play the media object. Otherwise, the network appliance downloads the media object from server over another network (e.g., Internet) and plays the downloaded media object.

In order to anticipate a claim each and every limitations of the claims must be taught by the cited reference. As discussed above, it is respectfully submitted that Levy fails to disclose at least the limitations set forth above. Therefore, for the reasons discussed above, it is respectfully submitted that independent claim 1 is not anticipated by Levy.

Similarly, independent claims 29 and 44 include limitations similar to those recited in claim 1. Thus, for the reasons similar to those discussed above, independent claims 29 and 44 are not anticipated by Levy.

Given that the rest of the claims depend from one of the above independent claims, at least for the reasons similar to those discussed above, it is respectfully submitted that the rest of the claims are not anticipated by Levy.

Claims 13-15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy and U.S. Patent No. 6,166,735 of Dom et al ("Dom"). Claims 16-20, 23, 36 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Dom and U.S. Patent No. 6,097,389 of Morris et al ("Morris").

It is respectfully submitted that Dom and Morris also fail to disclose the limitations set forth above for the reasons set forth in the previous response. Claims 13-20, 22-23 and 36 depend from one of the above independent claims. Thus, at least for the reasons similar to those discussed above, it is respectfully submitted that claims 13-20, 22-23 and 36 are patentable over the cited references.

In addition, both Dom and Morris are related to GUIs for manipulating digital objects, while Levy is related to embedding an identifier within an audio stream for the commercial advertisement purposes. There is not suggestion within Levy, Dom, and Morris to combine with each other. Levy, Dom, and Morris are solving significantly different problems and their approaches are significantly different. One with ordinary skill in the art would not combine these references because such a combination lacks motives and reasonable expectation of success. Such a combination can only be found based on the impermissible hindsight of Applicant's own disclosure.

Even if Levy, Dom, and Morris were combined, such a combination still lacks the limitations set forth above. Therefore, claims 13-20, 22-23 and 36 are patentable over the cited references. Withdrawal of the rejections is respectfully requested.

In view of the foregoing, Applicant respectfully submits the present application is now in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

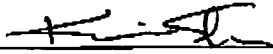
Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date:

5/9/2005

  
Kevin G. Shao  
Attorney for Applicant  
Reg. No. 45,095  
Kevin\_Shao@bstz.com

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025-1026  
(408) 720-8300